

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING # 06-29**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

Whether a Tennessee company that operates stores throughout Tennessee can store all records related to sales of beer and alcoholic beverages containing less than five percent alcohol in an out-of-state location.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (G) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[TAXPAYER] owns and operates convenience stores throughout Tennessee under various names including, but not limited to, [LANGUAGE REDACTED]. All of the Taxpayer's stores operate under the Company's federal tax ID number, [LANGUAGE REDACTED].

Tenn. Code Ann. § 57-5-206 currently requires the Taxpayer to keep all invoices and receipts related to sales of beer and alcoholic beverages containing less than five percent alcohol and to make them available for inspection by the Department. The Taxpayer requests the Department's express authorization to keep such records at the Taxpayer's headquarters in [STATE – NOT TENNESSEE]. The records can be made available to the Department upon request.

QUESTION

1. Can the Taxpayer keep all of its records relating to sales of beer and alcoholic beverages containing less than five percent alcohol in an out-of-state location?
2. Will this ruling apply to all of the Taxpayer's stores?

RULING

1. Yes. To comply with the State's record-keeping requirements, the Taxpayer may keep all of its records relating to sales of beer and alcoholic beverages containing less than five percent alcohol in an out-of-state location.
2. Yes. This ruling will apply to all of the Taxpayer's stores in Tennessee.

ANALYSIS

Tenn. Code Ann. § 57-5-206 governs the storage of invoices relating to sales of beer and alcoholic beverages containing less than five percent alcohol in the State of Tennessee. The statute states:

(a) Every person, firm, corporation, joint-stock company, syndicate or association in this state engaged in the storage, sale, distribution by sale or gift and/or manufacture in this state of such beer and/or other beverage **shall keep invoices and all other memoranda fully descriptive thereof, and shall permit the commissioner or the commissioner's authorized agents, representatives or employees to inspect, at any time during the business hours of the day,** all such articles, containers, packages, invoices, books, papers and memoranda as may be deemed necessary in the opinion of the commissioner, or the commissioner's authorized agent, representative or employee, in ascertaining whether or not the state

privilege tax levied under the provisions of §§ 57-5-201--57-5-203 has been paid or in determining the amount of such tax as may be due.

(b) The original bill of sale or invoice or a microfiche copy thereof **shall be kept by the wholesaler for at least two (2) years and the duplicate bill of sale or invoice shall be retained by the retailer for at least two (2) years, subject to inspection by the department or the county, municipal or metropolitan government involved.** (Emphasis added).

Tenn. Code Ann. § 57-5-206 does not contain any provisions regarding where the invoices and memoranda must be stored. The statute only requires that the documents be available for inspection during business hours. Since Tenn. Code Ann. § 57-5-206 does not address the question of where the documents should be stored, the Taxpayer may store the documents in an out-of-state location so long as the documents are available for inspection by the Commissioner or her representative during business hours. However, it should be noted that this ruling applies only to the State of Tennessee's requirements for record-keeping. The Department of Revenue cannot bind local authorities with this ruling. The Taxpayer may consider checking the applicable local authorities before making a decision regarding the storage of its records.

In addition to the requirements of Tenn. Code Ann. § 57-5-206, the Taxpayer must comply with Tenn. Code Ann. § 67-1-113 which requires the taxpayer to "keep and preserve suitable records from which the taxpayer and the commissioner can determine the Tennessee tax liability" and Tenn. Code Ann. § 67-6-523 which requires that "all invoices and other records of goods, wares and merchandise, or other subjects of taxation under [Title 67, Chapter 6 of the Tennessee Code]¹" be kept for a period of three (3) years from December 31 of the year in which the associated return required by Chapter 6 was filed. This ruling applies to all of the Taxpayer's stores in Tennessee.

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Approved: Loren L. Chumley
Commissioner of Revenue

Date: 8/1/06

¹ Title 67, Chapter 6 of the Tennessee Code deals with sales and use tax.